



January 13, 2016

SENATE BILL No. 173

DIGEST OF SB 173 (Updated January 12, 2016 11:47 am - DI 120)

Citations Affected: IC 6-3; noncode.

Synopsis: Income taxation of motorsports racing. With respect to professional motorsports racing teams and members, requires, rather than permits, the department of state revenue (department) to adopt rules, guidelines, or other instructions to establish alternative methods of simplifying return filing for race teams and race team members. Specifies that the rules and guidelines required to be adopted by the department must apply retroactively to taxable years beginning after December 31, 2013.

Effective: January 1, 2014 (retroactive).

Young R Michael

January 5, 2016, read first time and referred to Committee on Tax & Fiscal Policy.
January 12, 2016, amended, reported favorably — Do Pass.

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January 13, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 173

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-2-3.2, AS ADDED BY P.L.233-2013,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2014 (RETROACTIVE)]: Sec. 3.2. (a) The following
4 definitions apply to this section:

5 (1) "Bonus for services rendered as a race team member"
6 includes:

7 (A) a bonus earned as a result of participation in a racing
8 event, such as a performance bonus or any other bonus; and

9 (B) a bonus paid for signing a contract, unless all of the
10 following conditions are met:

11 (i) The payment of the signing bonus is not conditional upon
12 the signee participating in a racing event for the team or
13 performing any subsequent services for the team.

14 (ii) The signing bonus is payable separately from the salary
15 and any other compensation.

16 (iii) The signing bonus is nonrefundable.

17 (2) "Indiana duty days" means the number of total duty days spent

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by a race team member within Indiana rendering a service for the race team in any manner during the taxable year, except travel days spent in Indiana that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar race team event.

(3) "Race team" includes a professional motorsports racing team that has services rendered by a race team member in Indiana or participated in a racing event at a qualified motorsports facility (as defined in IC 5-1-17.5-14).

(4) "Race team member" includes employees or independent contractors who render services on behalf of the race team. The term includes but is not limited to drivers, pit crew members, mechanics, technicians, spotters, and crew chiefs.

(5) "Total duty days" means all days during the taxable year that a race team member renders a service for the race team. The term includes:

(A) race days, practice days, qualification days, training days, testing days, days spent at team meetings, days spent with a promotional caravan, and days served with the team in which the team competes or is scheduled to compete;

(B) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the race team; and

(C) travel days that do not involve either a race, practice, qualification, training, testing, team meeting, promotional caravan, or other similar team event.

Total duty days for an individual who joins a race team during the season begin on the day the individual joins the team, and, for an individual who leaves a team, end on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include those days for which a team member is not compensated and is not rendering a service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

(6) "Total income" means the total compensation received during the taxable year for services rendered. The term includes salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a race team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments,



expansion or relocation payments, or any other payments not related to services rendered to the race team.

(b) For purposes of IC 6-3, Indiana income is the individual's total income during the taxable year multiplied by the following fraction:

(1) The numerator of the fraction is the individual's Indiana duty days for the taxable year.

(2) The denominator of the fraction is the individual's total duty days for the taxable year.

(c) It is presumed that this section results in a fair and equitable apportionment of the race team member's compensation. However, if the department demonstrates that the method provided under this section does not fairly and equitably apportion a team member's compensation, the department may require the team member to apportion the team member's compensation under another method that the department prescribes. The prescribed method must result in a fair and equitable apportionment. A team member may submit a proposal for an alternative method to apportion the team member's compensation if the team member demonstrates that the method provided under this section does not fairly and equitably apportion the team member's compensation. If approved by the department, the proposed method must be fully explained in the team member's nonresident personal income tax return.

(d) The department ~~may~~ **shall** adopt rules, guidelines, or other instructions **applicable for taxable years beginning after December 31, 2013** to establish alternative methods:

(1) of simplifying return filing for **race** team members, if the team is not based in Indiana; **and**

(2) **for a race team not based in Indiana to file a composite return on behalf of and covering more than one (1) race team member if the same amount of tax is remitted as if individual filings had occurred. Filing a composite return under this subdivision exempts:**

(A) **a race team member covered by the return from having an individual income tax return filing requirement with respect to the income reported on the composite return; and**

(B) **a race team that is not based in Indiana from a filing requirement only with respect to team members included on the composite return.**

(e) Notwithstanding any other provision under IC 6-3-4, the department may adopt rules, guidelines, or other instructions related to withholding requirements under this chapter.



1 (f) This section, as enacted in 2013, is intended to be a clarification
2 of the law and not a substantive change in the law.

3 SECTION 2. [EFFECTIVE JANUARY 1, 2014 (RETROACTIVE)]

4 **(a) Rules, guidelines, or other instructions adopted by the**
5 **department of state revenue under IC 6-3-2-3.2(d), as amended by**
6 **this act, apply to taxable years beginning after December 31, 2013.**

7 **(b) This SECTION expires July 1, 2019.**

8 SECTION 3. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 173, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "2016" and insert "2014".

Page 3, line 24, after "instructions" insert "**applicable for taxable years beginning after December 31, 2013**".

Page 3, line 27, after "team" insert "**not based in Indiana**".

Page 3, line 27, delete "combined" and insert "**composite**".

Page 3, line 30, delete "combined" and insert "**composite**".

Page 3, line 33, delete "combined" and insert "**composite**".

Page 3, line 37, delete "combined" and insert "**composite**".

Page 4, line 1, delete "2016" and insert "2014".

Page 4, delete lines 2 through 3 and insert: "**(a) Rules, guidelines, or other instructions adopted by the department of state revenue under IC 6-3-2-3.2(d), as amended by this act, apply to taxable years beginning after December 31, 2013.**".

and when so amended that said bill do pass.

(Reference is to SB 173 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

